

## **Assembly Bill No. 821**

### **CHAPTER 1028**

An act to add Sections 22134.5 and 22136.5 to the Education Code, relating to retirement.

[Approved by Governor September 30, 2000. Filed  
with Secretary of State September 30, 2000.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 821, Committee on Public Employees, Retirement and Social Security. Retirement.

Existing law provides for the payment of retirement benefits to various school employees under the State Teachers' Retirement System . Under existing law, the retirement benefits are computed based upon various factors, including the employee's final compensation. Under existing law, for those school employees, "final compensation" means the highest average annual compensation earnable by a member during any period of 3 consecutive school years.

This bill would change that definition of "final compensation" for members with 25 or more years of credited service to, instead, mean the highest average annual compensation earnable by the member during a consecutive 12-month period of employment, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 22134.5 is added to the Education Code, to read:

22134.5. (a) Notwithstanding Section 22134, "final compensation" means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last consecutive 12-month period of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of 12 consecutive months, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in another retirement system pursuant to

Section 22115.2 shall take into consideration the compensation earnable while a member of the other system, provided that all of the following exist:

(1) The member was in state service or in the employment of a local school district or a county superintendent of schools.

(2) Service under the other system was not performed concurrently with service under the Defined Benefit Program.

(3) Retirement under the Defined Benefit Program is concurrent with the member's retirement under the other system.

(d) The compensation earnable for the first position in which California service was credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23805.

(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(g) This section shall only apply to a member who has 25 or more years of credited service, excluding service credited pursuant to Section 22714, 22715, 22717, or 22826, but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. This section also shall apply to a nonmember spouse, if the member had at least 25 years of credited service, excluding service credited pursuant to Section 22714, 22715, 22717, or 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

SEC. 2. Section 22136.5 is added to the Education Code, to read:

22136.5. (a) Notwithstanding Section 22136, "final compensation" with respect to a member whose salary while an active member was reduced because of a reduction in school funds means the highest average annual compensation earnable by the member during any 12 months while employed to perform creditable service subject to coverage by the Defined Benefit Program if the member elects to be subject to this section.

(b) This section shall only apply to a member who has 25 or more years of credited service, excluding service credited pursuant to Section 22714, 22715, 22717, or 22826, but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. This section also shall apply to a nonmember spouse, if the member had at least 25 years of credited

service, excluding service credited pursuant to Section 22714, 22715, 22717, or 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

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